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| 10/510,605      | 10/08/2004  | David Johnston Lynch | PU020102            | 3925             |

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| EXAMINER |
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ALAM, MUSHFIKH I

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| ART UNIT | PAPER NUMBER |
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2426

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/510,605

**Applicant(s)**

LYNCH, DAVID JOHNSTON

**Examiner**

MUSHFIKH ALAM

**Art Unit**

2426

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8500)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 10/20/2008, 9/17/08, 2/19/08, 10/8/04



## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The references listed on the Information Disclosure Statements filed on 10/20/2008, 9/17/2008, 2/19/2008, 10/8/2004 have been considered by examiner (see attached PTO/SB/08).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 8, 10-11, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al. (US 2003/0227567) in view of Rosenberg et al. (US 2002/0100041).

Claim 1, Plotnick teaches an apparatus for displaying at least two modes (application modes) comprising an interactive application mode (internet access mode) and a television program mode (VOD mode) on a display device (paragraph [0016]), the apparatus comprising:

- a television program signal receiver (16) (fig. 1);
- an interactive application signal receiver (32) (fig. 1);

- means for switching (obtaining focus) between said television program mode and said interactive application mode being active (focused) in said display device (paragraph [0027]);

Plotnick is silent regarding the apparatus comprising:

- means to receive remote control signals from a remote control device having a mute key for generating a mute signal;
- means to enable a mute-to-interactive application feature; and
- wherein when said mute-to-interactive application feature is enabled and said television program mode is active in said display device, upon receipt of said mute signal, said mode switching means is activated causing said interactive application mode to be active in said display device.

Rosenberg teaches the apparatus comprising:

- means (130) to receive remote control signals from a remote control device having a mute key (i.e. pause key mutes sound) for generating a mute signal (paragraphs [0036], [0039]);
- means (i.e. indicating that he would like to see pause ads) to enable a mute-to-interactive application feature (paragraphs [0039], [0050]); and
- wherein when said mute-to-interactive application feature is enabled (i.e. user enabling pause ads) said television program mode (user watching video programming) is active in said display device, upon receipt of said mute signal (pause), said mode switching means is activated causing said interactive application mode (pause ads) to be active in said display device (paragraph [0050]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a switching modes during a mute command as taught by Rosenberg to the application switching system of Plotnick to allow for additional programming during an inactive period (i.e. pause/mute) (paragraph [0050]).

Claim 2, Rosenberg teaches the apparatus wherein when said mute-to-interactive application feature is enabled (user indicating he wants to view pause ads).

Plotnick teaches the feature of switching said interactive application mode to television mode, upon receipt of said mute signal (hot key) (paragraph [0027]).

Claim 8, Plotnick teaches the apparatus wherein said interactive application mode is a browser mode (i.e. internet access capable programs) (paragraph [0016]).

Claim 10 is analyzed as an apparatus of claim 1.

Claim 11 is analyzed as an apparatus of claim 2.

Claim 17 is analyzed as an apparatus of claim 8.

4. Claims 3-5, 12-14, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al. (US 2003/0227567) in view of Rosenberg et al. (US 2002/0100041), and further in view of Mabon (US 7061549).

Claims 3-5 recites features similar to claim 1 and differ in that the key used to initiate a mode switch is a go-back key.

As discussed in claim 1, Plotnick, Rosenberg teach switching between modes upon the receipt of a hot key command.

Mabon teaches a go-back key (previous channel of interest key) (col. 7, lines 31-60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided switching modes (of Plotnick) upon a go-back key (of Mabon) in place of the hot key (of Plotnick) for the added benefit of going back and forth between modes (col. 7, lines 31-60).

Claim 12 is analyzed as an apparatus of claim 3.

Claim 13 is analyzed as an apparatus of claim 4.

Claim 14 is analyzed as an apparatus of claim 5.

Claim 19 is analyzed as a combination of claims 1-5.

Claim 20 is analyzed as an apparatus of claim 8.

5. Claims 6-7, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al. (US 2003/0227567) in view of Rosenberg et al. (US 2002/0100041), and further in view of Miller et al. (US 2002/0194595), and further in view of (US Zigmond (US 6698020).

Claim 6, Plotnick, Rosenberg together teach a system that switches applications upon the receipt of a mute (pause command mutes sound) command as shown in claim 1.

Plotnick, Rosenberg are silent regarding the apparatus further comprising:

- means to enable a commercial skip feature in response to a commercial skip signal;
- said remote control device having a commercial skip key for generating a commercial skip signal;

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- upon detecting a beginning of a commercial break, said mode switching means is activated causing said interactive application mode to be active until either detection of an end of a commercial break or upon elapse of a selected period of time.

Miller teaches the apparatus further comprising:

- means to enable (user-enabled commands are remote control commands) a commercial skip feature in response to a commercial skip signal (paragraphs [0060]);
- said remote control device having a commercial skip key for generating a commercial skip signal (paragraph [0005]);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a commercial skip key as taught by Miller to the system of Plotnick, Rosenberg to allow users to automatically skip over commercials (paragraph [0005]).

Zigmond teaches the apparatus further comprising:

- upon detecting a beginning of a commercial break (commercial trigger), said mode switching means is activated causing said interactive application mode (of Plotnick) to be active until either detection of an end of a commercial break or upon elapse of a selected period of time (col. 8, lines 29-54).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided detecting of commercials breaks and switching as taught by Zigmond to the system of switching applications of Plotnick, Rosenberg, Miller to allow users to avoid watching commercials (paragraph [0005] of Miller).



Claim 7, Miller teaches the apparatus of claim 6 wherein said commercial skip feature is enabled (user-enabled commands are remote control commands) (paragraph [0060]).

Zigmond teaches said apparatus is adapted to detect said beginning and said end of said commercial break (based on triggers) col. 8, lines 29-54).

Claim 15 is analyzed as an apparatus of claim 6.

Claim 16 is analyzed as an apparatus of claim 7.

6. Claims 9, 18, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al. (US 2003/0227567) in view of Rosenberg et al. (US 2002/0100041), and further in view of Augenbraun et al. (US 2005/0149981), and further in view of Schlack (US 2002/0056107).

Claim 9, Plotnick, Rosenberg are silent regarding the apparatus further comprising:

- means to enable a television during download function;
- wherein when said browser mode is active and said television during download function is enabled, upon a download above a threshold time being detected, said mode switching means is activated causing said television program mode to be active until detection of completion of said download.

Augenbraun teaches the apparatus further comprising:

- means to enable a television during download function (paragraph [0016]);

- wherein when said browser mode is active and said television during download function is enabled, said mode switching means is activated causing said television program mode to be active until detection of completion of said download (paragraph [0011]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided switching upon downloads as taught by Augenbraun to the system of Plotnick, Rosenberg to minimize the amount of time the user cannot watch their program (paragraph [0011]).

Schlack teaches a threshold time being detected (paragraph [0015]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a threshold before activating a switch as taught by Schlack to the system of Plotnick, Rosenberg, Augenbraun to purposefully activate a switch in programming (paragraph [0015]).

Claim 18 is analyzed as an apparatus of claim 9.

Claim 21 is analyzed as an apparatus of claim 9.

### ***Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSHFIKH ALAM whose telephone number is (571)270-1710. The examiner can normally be reached on Mon-Fri: 8:30-18:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mushfikh Alam/  
Examiner, Art Unit 2426  
12/30/2008

/Annan Q Shang/

Primary Examiner, Art Unit 2424